

Reference Guide: Legal Financial Obligations (LFOs)

DISPOSITIONAL ORDERS

Most LFOs associated with juvenile offenses, including any LFOs, fees, fines, or costs imposed at the city, town or county level, have been abolished by the Youth Equality and Reintegration Act of 2015. Exceptions include the DNA Collection Fee, the Crime Victims Penalty Assessment, and Restitution. *Laws of 2015, ch. 265*. This Reference Guide gives information about imposing LFOs as well as collecting LFOs and granting relief from LFOs.

Ability to Pay Factors					
Employment	Monthly Income	Detention	Other Debts (including Restitution)	GR 34 Status	Government Assistance

What monetary sanctions are mandatory after the YEAR Act?

- ⇒ **DNA Collection Fee:** may only be imposed if the state has not previously collected DNA as a result of a prior offense. *RCW 43.43.7541*.
- ⇒ **Crime Victim’s Compensation Fee:** The court must order respondent to pay the crime victims penalty assessment when the offense committed by respondent is defined as a most serious offense (RCW 9.94A.030) or a sex offense (Chapter RCW 9A.44.128). The court must order up to seven hours of community restitution when any persons have suffered bodily injury or death as a result of the offense committed by respondent, unless community restitution would not be practicable for respondent. Community restitution is imposed consecutively to any other community restitution the court imposes for the offense. *RCW 7.68.020, RCW 7.68.035*.

In ordering restitution, what must the sentencing court consider?

- ⇒ In its dispositional order, the court must order respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In so doing, the court must consider respondent’s ability to pay and is afforded the discretion to determine (1) the conditions of payment, (2) whether to impose joint and several liability, (3) the practicability of community restitution, and (4) whether to relieve respondent of the requirement to pay restitution to an insurance company. *RCW 13.40.190*.
- ⇒ **(1) Conditions of Payment:** The court must consider and set the appropriate payment amount, including establishing a payment schedule that may extend up to ten years. The court must consider respondent’s individualized financial circumstances and make an inquiry into ability to pay. *RCW 13.40.190, State v. Blazina, 182 Wn.2d 827 (2015)*.
- ⇒ **(2) Joint and Several Liability:** The court must consider and decide whether to impose joint and several liability for the payment of restitution or divide restitution equally among the respondents. The court must consider (a) interest and circumstances of victims, (b) circumstances of respondents, and (c) interest of justice. *RCW 13.40.190*.
- ⇒ **(3) Community Restitution:** The court must consider whether respondent is able to pay the restitution amount and, with input from the victim, may order performance of a number of hours of community restitution in lieu of monetary penalty, at the rate of the state minimum wage per hour. *RCW 13.40.190*.
- ⇒ **(4) Insurance Companies:** The court must consider respondent’s ability to pay and may relieve respondent of the requirement to pay, full or partial restitution to any insurance provider authorized under Title 48 RCW if the court is satisfied respondent cannot make full or partial payment to the insurance provider. *RCW 13.40.190*.

What must the court consider before punishing respondent for nonpayment of restitution?

- ⇒ The respondent is entitled to the same due process of law as an adult probationer. *RCW 13.40.200*. Before punishment, the court must inquire into ability to pay and find respondent “willfully violated” the terms of the order. *RCW 13.40.200*. The court may place the burden on respondent to prove inability to pay, but the court still has a duty to inquire into ability to pay. *Smith v. Whatcom Cnty. Dist. Ct., 147 Wn.2d 98(2002)*.
- ⇒ If the court finds youth cannot pay, the court may convert certain debts to community service. *RCW 13.40.200*.

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RELIEF AND COLLECTIONS

When may the sentencing court modify restitution orders?

- ⇒ **Insurance Companies:** The court may relieve respondent of the requirement to pay, full or partial restitution to any insurance provider authorized under Title 48 RCW. *RCW 13.40.190.*
- ⇒ **Others:** The court may modify the restitution order for good cause shown, including inability to pay. *RCW 13.40.190.*

When may the sentencing court relieve respondent from LFOs?

- ⇒ **LFOs:** Except for the DNA Collection Fee and the Crime Victims Penalty Assessment, the court may relieve respondent of the requirement to pay LFOs for good cause shown, including inability to pay. *RCW 13.40.192.*
- ⇒ **DNA Collection Fee:** The court may relieve respondent of the requirement to pay the fee, provided respondent would not have been required to pay the fee under current law. *RCW 13.40.192, State v. Blazina, 182 Wn.2d 827 (2015), GR 34.*
- ⇒ **Crime Victims Penalty Assessment:** Assuming that no inquiry was made by the trial court at the time of disposition regarding the eligibility of the underlying offense or the practicability of community service, in keeping with *State v. Blazina, 182 Wn.2d 827 (2015)*, the court may relieve respondent of the requirement to pay, full or partial, the Crime Victims Penalty Assessment. *RCW 13.40.192, State v. Blazina, 182 Wn.2d 827 (2015), GR 34.*

What happens when juvenile LFOs are referred to the Superior Court Clerk?

- ⇒ Since the YEAR Act abolished most LFOs, the number of referrals should drop and the court may relieve youth from LFOs as described above. Clerks may not add a fee for collection efforts on juvenile LFOs. *Chapter 13.40 RCW.*

Most Serious Offenses (RCW 9.94A.030)

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| <ul style="list-style-type: none"> • Any class A felony or criminal solicitation of, or criminal conspiracy to commit a class A felony; • Assault in the second degree; • Assault of a child in the second degree; • Child molestation in the second degree; • Controlled substance homicide; • Extortion in the first degree; • Incest when committed against a child under age 14; • Indecent liberties; • Kidnapping in the second degree; • Leading organized crime; • Manslaughter in the first degree; • Promoting prostitution in the first degree; • Rape in the third degree; • Robbery in the second degree; • Sexual exploitation; • Vehicular assault, when caused by the operation or driving of a | <ul style="list-style-type: none"> vehicle by a person while under the influence of liquor or any drug or by the operation of a vehicle in a reckless manner; • Vehicular homicide, when proximately caused by the driving of a vehicle by a person while under the influence of liquor or any drug, or by operation of any vehicle in a reckless manner; • Any class B felony offense with a finding of sexual motivation; • Any other felony with a deadly weapon finding; • Any felony offense in effect before December 2, 1983, that is comparable to a most serious offense defined here or any federal or out-of-state conviction for an offense under the laws of this state would be a felony classified as a most serious offense here; certain prior convictions for Indecent Liberties; • Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence was 10 years or more. |
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Sex Offenses (Chapter 9A.44 RCW)

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| <ul style="list-style-type: none"> • Rape • Rape of a child • Child molestation • Sexual misconduct • Indecent liberties | <ul style="list-style-type: none"> • Sexually violating human remains • Voyeurism • Custodial sexual misconduct • Criminal trespass against children |
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